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4 **NOT FOR PUBLICATION**

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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

10 Plaintiff,  
11 v.  
12 GLENIO JESUA FERREIRA SILVA,  
13 Defendant.

No. CR 07-00678 JSW

**ORDER DENYING MOTION FOR  
BILL OF PARTICULARS**

14

15 **INTRODUCTION**

16 Now before the Court is Defendant Glenio Silva's Motion for a Bill of Particulars. The  
17 Government has opposed the motion. No reply has been filed. The matter is now ripe, and  
18 having considered the parties' papers, relevant legal authority, and the record in this case, the  
19 Court finds this matter is suitable for disposition without oral argument. The hearing set for  
20 May 15, 2008, on this motion is VACATED. However, the Defendant's motion to compel  
21 discovery remains on calendar pending further order of this Court.

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**ANALYSIS**

23 Federal Rule of Criminal Procedure 7(f) provides that “[t]he court may direct the filing  
24 of a bill of particulars.” “The bill of particular serves three functions: ‘to inform the defendant  
25 of the nature of the charges with sufficient precision to enable him to prepare for trial, to avoid  
26 or minimize the danger of surprise at the time of trial, and to enable him to plead his conviction  
27 or acquittal in bar of another prosecution for the same offense when the indictment is too vague,  
28 and indefinite for such purposes.’” *United States v. Geise*, 597 F.2d 1170, 1180-81 (9<sup>th</sup> Cir.

## United States District Court

For the Northern District of California

1 1979) (quoting *United States v. Birmley*, 529 F.2d 103, 108 (9<sup>th</sup> Cir. 1976); *see also United*  
2 *States v. Mitchell*, 744 F.2d 701, 705 (9<sup>th</sup> Cir. 1984) (“The purposes of a bill of particulars are to

3 minimize the danger of surprise at trial and to provide sufficient information on the nature of

4 the charges to allow preparation of a defense.”). However, a defendant may not use a motion

5 for a bill of particulars to obtain full discovery of the government’s evidence. *Geise*, 597 F.2d

6 at 1181 (concluding court did not abuse its discretion in denying motion for bill of particulars

7 seeking “when, where and how” of every act in furtherance of a conspiracy, when indictment

8 and discovery provided defendant with information sufficient to meet purposes of a bill of

9 particulars).

10 In this case, the indictment charges Defendant with violations of 18 U.S.C. §  
11 1324(a)(1)(A)(iii), and the language of the indictment sufficiently tracks the language of the  
12 statute to apprise Defendant of the nature of the charges.<sup>1</sup> In addition, the Complaint provides  
13 additional information regarding the facts and circumstances surrounding the crime with which  
14 Defendant is charged. (See Docket No. 1 (Complaint and Affidavit in Support of Complaint  
15 and Arrest Warrant).)

16 Moreover, the Government has represented that it has provided the names of the aliens  
17 that Defendant is alleged to have harbored, and will provide additional notice by letter.  
18 Defendant has not contested these assertions by filing a reply brief. In addition, it is undisputed  
19 that the Government has provided the Defendant with extensive discovery, and Defendant has  
20 not asserted that the discovery provided to date does not adequately supplement the allegations  
21 of the indictment.

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28 <sup>1</sup> The Court expresses no opinion on whether the allegations of the indictment  
are sufficient to survive a motion to dismiss and shall address that question when, and if,  
Defendant files a motion to dismiss the indictment on that basis.

1           Accordingly, although the Court recognizes that it has the discretion to order the  
2 Government to provide a bill of particulars, the Court concludes that it is not warranted in this  
3 case. Defendant's motion is DENIED.

4           **IT IS SO ORDERED.**

5           Dated: May 5, 2008

  
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7           JEFFREY S. WHITE  
8           UNITED STATES DISTRICT JUDGE